

# **HELM** **FINANCIAL CORPORATION**

505 Sansome Street, Suite 1800 • San Francisco CA 94111

415/398-4510

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[www.hlmx.com](http://www.hlmx.com)

February 11, 2010

RECORDATION NO. 17379-B  
FILED

Chief  
Section of Administration Office of Proceedings  
Surface Transportation Board  
395 E Street S W  
Washington, D.C. 20423-0001

FEB 11 '10 -2 51 PM

SURFACE TRANSPORTATION BOARD

RE. Assignment and Assumption Agreement dated as of August 31, 2006 between Citicorp Railmark, Inc (assignee of General Electric Railcar Leasing Services Corporation) as Assignor and Helm Financial Corporation as Assignee ("Assignment")

Dear Section Chief:

Attached for recordation pursuant to the provision of 49 U S C Section 11301(a) is a copy of the original Assignment and Assumption Agreement, a secondary document as defined in the Board's Rules for Recordation of Documents

The attached document is an assignment and relates to the document previously filed with the Board under Recordation Number 17379

The names and addresses of the parties to the attached document are

Name and Address of Assignor      Citicorp Railmark, Inc  
    388 Greenwich Street, 20<sup>th</sup> Floor  
    New York, NY 10013

Name and Address of Assignee:      Helm Financial Corporation  
    505 Sansome Street, Suite 1800  
    San Francisco, CA 94111

A description of the railroad equipment covered by the attached document is

533 Open Top Hoppers  
CNW 870100-870674 (Not Inclusive)

A short summary of the document to appear in the index is:

Assignment and Assumption Agreement

The recordation filing fee of \$41.00 is on account

Yours truly,

  
Sharon L. Van Fossan  
Supervisor Contract Administration

/svf  
Attachment

FEB 11 '10 -2 51 PM

**ASSIGNMENT AND ASSUMPTION AGREEMENT SURFACE TRANSPORTATION BOARD**

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of August 31, 2006 (this "Agreement"), is between Citicorp Railmark, Inc. (the "Seller"), and Helm Financial Corporation, a California corporation (the "Buyer").

**RECITALS**

WHEREAS, the Buyer and the Seller have entered into that certain Purchase and Sale Agreement, dated as of August 1, 2006 among the Buyer, the Seller and Citicorp USA, Inc. (the "Purchase Agreement"), providing for the purchase by the Buyer from the Seller of the Hopper Car Owner Interests relating to the open top hopper cars described on Schedule 1 hereto (the "Hopper Cars"), subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

**AGREEMENT**

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in the Purchase Agreement.

2. **Assignment.** Effective as to each Hopper Car, on the Closing Date the Seller sells to the Buyer all of the Seller's rights, title and interest in and to such Hopper Car and assigns to the Buyer all of the Seller's rights and obligations under the Hopper Car Lease Documents. Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any right to indemnification for tax or other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Hopper Car Lease Documents. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Hopper Car Lease Documents and each reference in the Hopper Car Lease Documents to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Seller under the Hopper Car Lease Documents.

4. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto

5. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Paragraph 18 of the Purchase Agreement.

6. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

7. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligation Laws.

*[Signature Page Follows]*

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Seller by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Seller. I further declare under penalty of perjury that the foregoing is true and correct.*

**CITICORP RAILMARK, INC.**

By: D. J. Hill  
Name: Bardford J. Hill  
Title: Vice President

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Buyer by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Buyer. I further declare under penalty of perjury that the foregoing is true and correct.*

**HELM FINANCIAL CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Seller by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Seller. I further declare under penalty of perjury that the foregoing is true and correct*

**CITICORP RAILMARK, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Buyer by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Buyer. I further declare under penalty of perjury that the foregoing is true and correct.*

**HELM FINANCIAL CORPORATION**

By John F. Dains  
Name: JOHN F. DAINS  
Title: PRESIDENT AND CEO

**SCHEDULE 1 TO**  
**ASSIGNMENT AND ASSUMPTION AGREEMENT**

Five hundred twenty four (524) 4,000 cubic foot, 100 ton, three pocket, rotary coupler, open top hopper railcars built by Trinity Industries in 1991, marked and numbered as follows:

	<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>	
1	CNW	870100		43	CNW	870150	85	CNW	870195
2	CNW	870101		44	CNW	870151	86	CNW	870196
3	CNW	870102		45	CNW	870152	87	CNW	870197
4	CNW	870103		46	CNW	870153	88	CNW	870198
5	CNW	870104		47	CNW	870154	89	CNW	870200
6	CNW	870105		48	CNW	870156	90	CNW	870202
7	CNW	870106		49	CNW	870158	91	CNW	870203
8	CNW	870107		50	CNW	870159	92	CNW	870204
9	CNW	870108		51	CNW	870160	93	CNW	870205
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15	CNW	870116		57	CNW	870166	99	CNW	870211
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19	CNW	870120		61	CNW	870170	103	CNW	870216
20	CNW	870121		62	CNW	870171	104	CNW	870217
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22	CNW	870123		64	CNW	870173	106	CNW	870219
23	CNW	870124		65	CNW	870174	107	CNW	870220
24	CNW	870125		66	CNW	870175	108	CNW	870221
25	CNW	870127		67	CNW	870176	109	CNW	870222
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41	CNW	870148		83	CNW	870193	125	CNW	870238
42	CNW	870149		84	CNW	870194	126	CNW	870239

	<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>
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131	CNW	870245	180	CNW	870298	229	CNW	870365
132	CNW	870246	181	CNW	870299	230	CNW	870366
133	CNW	870247	182	CNW	870300	231	CNW	870367
134	CNW	870248	183	CNW	870302	232	CNW	870368
135	CNW	870249	184	CNW	870303	233	CNW	870369
136	CNW	870250	185	CNW	870304	234	CNW	870370
137	CNW	870251	186	CNW	870305	235	CNW	870371
138	CNW	870252	187	CNW	870306	236	CNW	870372
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143	CNW	870257	192	CNW	870312	241	CNW	870378
144	CNW	870258	193	CNW	870313	242	CNW	870379
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	<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>
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316	CNW	870455	365	CNW	870506	414	CNW	870557
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318	CNW	870457	367	CNW	870508	416	CNW	870559
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321	CNW	870460	370	CNW	870511	419	CNW	870562
322	CNW	870461	371	CNW	870512	420	CNW	870563

	<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>
421	CNW	870564	456	CNW	870601	491	CNW	870640
422	CNW	870565	457	CNW	870602	492	CNW	870641
423	CNW	870566	458	CNW	870603	493	CNW	870642
424	CNW	870567	459	CNW	870604	494	CNW	870643
425	CNW	870568	460	CNW	870605	495	CNW	870644
426	CNW	870569	461	CNW	870606	496	CNW	870645
427	CNW	870570	462	CNW	870607	497	CNW	870646
428	CNW	870572	463	CNW	870609	498	CNW	870647
429	CNW	870573	464	CNW	870610	499	CNW	870648
430	CNW	870574	465	CNW	870611	500	CNW	870649
431	CNW	870575	466	CNW	870612	501	CNW	870650
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433	CNW	870577	468	CNW	870614	503	CNW	870652
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435	CNW	870579	470	CNW	870616	505	CNW	870654
436	CNW	870580	471	CNW	870617	506	CNW	870655
437	CNW	870581	472	CNW	870618	507	CNW	870656
438	CNW	870583	473	CNW	870619	508	CNW	870657
439	CNW	870584	474	CNW	870620	509	CNW	870658
440	CNW	870585	475	CNW	870621	510	CNW	870659
441	CNW	870586	476	CNW	870622	511	CNW	870660
442	CNW	870587	477	CNW	870623	512	CNW	870661
443	CNW	870588	478	CNW	870625	513	CNW	870662
444	CNW	870589	479	CNW	870628	514	CNW	870663
445	CNW	870590	480	CNW	870629	515	CNW	870665
446	CNW	870591	481	CNW	870630	516	CNW	870666
447	CNW	870592	482	CNW	870631	517	CNW	870667
448	CNW	870593	483	CNW	870632	518	CNW	870668
449	CNW	870594	484	CNW	870633	519	CNW	870669
450	CNW	870595	485	CNW	870634	520	CNW	870670
451	CNW	870596	486	CNW	870635	521	CNW	870671
452	CNW	870597	487	CNW	870636	522	CNW	870672
453	CNW	870598	488	CNW	870637	523	CNW	870673
454	CNW	870599	489	CNW	870638	524	CNW	870674
455	CNW	870600	490	CNW	870639			

**EXHIBIT A**

**ADDITIONAL HOPPER CARS**

Nine (9) 4,000 cubic foot, 100 ton, three pocket, rotary coupler, open top hopper railcars built by Trinity Industries in 1991, marked and numbered as follows:

	<b>Initial</b>	<b>Number</b>
1	CNW	870114
2	CNW	870199
3	CNW	870201
4	CNW	870290
5	CNW	870328
6	CNW	870345
7	CNW	870354
8	CNW	870624
9	CNW	870664